IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25/03/2004

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THE HON'BLE MR.JUSTICE P.D.DINAKARAN

W.P.No.15241 of 2000 and W.P.No. 15249 of 2000

W.P.No.15241 of 2000

1. S.Jagannathan
2. P.Saravanan .. Petitioners

-Vs-

1. The Commissioner
Tanjore Municipality
Tanjore.

2. The Director
Municipal Administration
Ezhilagam, Chepauk
Chennai-5.

3. The State of Tamil Nadu
rep. by its Special Commissioner
& Secretary to Government
Municipal Administration
& Water Supply Department
Fort St.George, Chennai-9. .. Respondents

W.P.No.15249 of 2000

1. J.Peter Sugumaran
2. R.Selvam
3. S.Saravanan
4. S.Ulaganathan
5. S.Manoharan
6. K.Murugesan
7. R.Ravikumar
8. K.Mohankumar
9. R.Muthukumar
10.R.Murali
11.B.Malick
12.K.Parthiban
13.B.Lenin Kumar
14.M.Vijaya

15.M.Rani .. Petitioners

Vs

1. The Commissioner
Tanjore Municipality
Tanjore.

2. The Director
Municipal Administration
Ezhilagam, Chepauk
Chennai-5.

3. The State of Tamil Nadu
rep. by its Secretary and
Commissioner, Local Administration
Department, Fort St. George
Chennai-9. .. Respondents

PRAYER: Petitions under Article 226 of the Constitution of India for issue of a writ of Mandamus, as stated therein.

For Petitioners : Mrs.A.L.Gandhimathi

For Respondents : Mrs.G.Devi
for 1st respondent
Mr.M.S.Palanisamy
Additional Govt. Pleader
for respondents 2 and 3

:ORDER

Contending that the petitioners were appointed by the first respondent/Municipality as contingent staff in the Thiruvalluvar Theatre at Tanjore, run by the first respndent/Municipality, and that they have completed 240 days of service in twelve calendar months, the petitioners seek a writ of Mandamus to direct the respondents to regularise their services.

2. Mrs.G.Devi, learned counsel for the first respondent, placing reliance on the counter affidavit filed on behalf of the first respondent, submits that the petitioners were appointed as contingent staff only for running the Thiruvalluvar Theatre at Tanjore and therefore, they are not entitled to seek regularization of service as Municipal servants.

3. Mr.M.S.Palanisamy, learned Additional Government Pleader appearing on behalf of the respondents 2 and 3, substantiating the stand taken by the learned counsel for the first respondent, and placing reliance on the decisions of the Apex Court in (i) Ramakrishna Kamat v. State of Karnataka,

(2003) 3 SCC 374; and (ii) Chanchal Goyal (Dr) v. State of Rajasthan,(2003) 3 SCC 485, submitted that temporary employees are not entitled to seek regularization of services.

4. I have given careful consideration to the submissions of both sides.

5. When an order of termination of the services of the teachers appointed temporarily was challenged before the High Court of Karnataka, seeking a further direction for regularization of their services, the learned Single Judge, while declining the prayer for regularization, restrained the State Government from terminating the services of the teachers till regular appointments are made. The same was also confirmed by the Division Bench of the High Court of Karnataka. The Apex Court in Ramakrishna Kamat v. State of Karnataka, (2003) 3 SCC 374 refused to interfere with the orders of the learned Single Judge and the Division Bench of the High Court of Karnataka, and held that the claim for regularization is not based or founded on any law.

6. Similarly, when the termination of services of temporary employees was challenged before the Apex Court in Chanchal Goyal (Dr) v. State of Rajasthan,(2003) 3 SCC 485, the Apex Court held that there is no scope for regularization unless the appointment was on regular basis, and further held that the order of termination cannot be challenged by temporary employees on the ground of long continuance in service.

7. In the instant case, it is not in dispute that the petitioners were employed only as contingent staff in Thiruvallur Theatre, Tanjore maintained by the first respondent/ Municipality; and that they have put in more than 240 days of service in twelve calendar months.

8. In that view of the matter, I am of the considered opinion that the petitioners are entitled to the benefit of the provisions of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. Therefore, except to permit the authorities constituted under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 to enquire into the matter and pass appropriate orders within six months from the date of filing of such application by the petitioners, no further orders are required in these writ petitions. However, it is made clear that till appropriate orders are passed by the authorities constituted under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, the respondents are restrained from terminating the services of the petitioners, unless and until they are otherwise disqualified to continue in service.

The writ petitions are disposed of accordingly. No costs.

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To:

1. The Commissioner
Tanjore Municipality
Tanjore.

2. The Director
Municipal Administration
Ezhilagam, Chepauk
Chennai-5.

3. The State of Tamil Nadu
rep. by its Special Commissioner
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& Water Supply Department
Fort St.George, Chennai-9.

4. The State of Tamil Nadu
rep. by its Secretary and
Commissioner, Local Administration
Department, Fort St. George
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